



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET NW
WASHINGTON, D.C. 20314-1000

AUG 28 2009

CECW-PB

MEMORANDUM FOR Commander, South Pacific Division (CESPD-DE)

SUBJECT: Implementation Guidance for Section 3029(a) of the Water Resources Development Act of 2007 (WRDA 2007) – Sacramento and American Rivers Flood Control, California

1. Section 3029(a) of WRDA 2007 modifies the project for flood control and recreation, Sacramento and American Rivers, California (Natomas Levee Features), authorized by section 9159 of the Department of Defense Appropriations Act, 1993 (106 Stat. 1944). The Section 3029(a) modification directs the Secretary to credit \$20,503,000 to the Sacramento Area Flood Control Agency (SAFCA) for the non-reimbursed Federal share of costs incurred by the Agency in connection with the project, and to allocate the amount to be credited toward the non-Federal share of such projects as are requested by SAFCA. The reference to the non-reimbursed Federal share relates to the provision in Section 9159(b)(2) for reimbursement of the non-Federal sponsors for work performed consistent with the 1992 feasibility report "American River Watershed Investigation," including any reevaluations of the report in accordance with Section 9159(a). A copy of Section 3029 and Section 9159 is enclosed.
2. In order for a credit authorized in Section 9159, as modified by Section 3029(a), to be recognized, including any application of such credit towards an ongoing or future project identified by SAFCA, the Sacramento District Commander shall provide an accounting of the proposed credit, including a history of the work performed, amounts expended, amounts previously reimbursed or credited, amounts remaining to be credited, and project(s) identified by SAFCA for application of the credit, as well as a recommendation by the District Commander that the work items from which credit has accrued are eligible for credit. This document should account for the \$20,503,000, including any portion that would otherwise be ineligible; and account for the work that warrants the application of the credit. The document should be submitted to HQUSACE for review and approval by the ASA(CW). Should the ASA(CW) affirm the credit amount and application based upon the District Commander's recommendation, the relevant Project Partnership Agreement (PPA) or PPA amendment should be modified and submitted to HQUSACE for further action. The approved credit documentation should accompany the supporting documentation for any PPA or PPA amendment(s) necessary to implement the above credit. The SPD-RIT will coordinate the necessary HQUSACE-level review and obtain approval of the PPA or PPA amendment by the ASA(CW).

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3. An Amendment (Number 1) to the current Project Cooperation Agreement for the American and Sacramento Rivers (Folsom Modifications) project, was approved by the ASA(CW) on 31 July 2009, which upon execution, implements Section 3029(b)(1) of WRDA 2007. Implementation guidance for the remaining provisions of Section 3029 will be provided under separate cover.

FOR THE COMMANDER:

A handwritten signature in black ink, appearing to read 'S. L. Stockton', with a stylized, cursive script.

STEVEN L. STOCKTON, P.E.
Director of Civil Works

Encl

WRDA LEGISLATIVE LANGUAGE

SEC. 3029. SACRAMENTO AND AMERICAN RIVERS FLOOD CONTROL, CALIFORNIA.

(a) NATOMAS LEVEE FEATURES.—

(1) **IN GENERAL.**—The project for flood control and recreation, Sacramento and American Rivers, California (Natomas Levee features), authorized by section 9159 of the Department of Defense Appropriations Act, 1993 (106 Stat. 1944), is modified to direct the Secretary to credit \$20,503,000 to the Sacramento Area Flood Control Agency for the nonreimbursed Federal share of costs incurred by the Agency in connection with the project.

(2) **ALLOCATION OF CREDIT.**—The Secretary shall allocate the amount to be credited pursuant to paragraph (1) toward the non-Federal share of such projects as are requested by the Sacramento Area Flood Control Agency.

(b) JOINT FEDERAL PROJECT AT FOLSOM DAM.—

(1) **IN GENERAL.**—The project for flood control, American and Sacramento Rivers, California, authorized by section 101(a)(6)(A) of the Water Resources Development Act of 1999 (113 Stat. 274) and modified by section 128 of the Energy and Water Development Appropriations Act, 2006 (119 Stat. 2259), is modified to authorize the Secretary to construct the auxiliary spillway generally in accordance with the Post Authorization Change Report, American River Watershed Project (Folsom Dam Modification and Folsom Dam Raise Projects), dated March 2007, at a total cost of \$683,000,000, with an estimated Federal cost of \$444,000,000 and an estimated non-Federal cost of \$239,000,000.

(2) **DAM SAFETY.**—Nothing in this subsection limits the authority of the Secretary of the Interior to carry out dam safety activities in connection with the auxiliary spillway in accordance with the Bureau of Reclamation safety of dams program.

(3) TRANSFER OF FUNDS.—

(A) **IN GENERAL.**—The Secretary and the Secretary of the Interior are authorized to transfer between the Department of the Army and the Department of the Interior appropriated amounts and other available funds (including funds contributed by non-Federal interests) for the purpose of planning, design, and construction of the auxiliary spillway.

(B) **TERMS AND CONDITIONS.**—Any transfer made pursuant to this subsection shall be subject to such terms and conditions as may be agreed on by the Secretary and the Secretary of the Interior.

Enclosure

Department of Defense Appropriations Act for Fiscal Year 1993
(Public Law 102-396, dated October 6, 1992)

SEC. 9159. SACRAMENTO AND AMERICAN RIVERS FLOOD CONTROL PROJECT,
CALIFORNIA: PRECONSTRUCTION ENGINEERING AND DESIGN;
NATOMAS LEVEE CONSTRUCTION.

(a) CONTINUATION OF ENGINEERING AND DESIGN.—The Secretary of the Army is directed to reevaluate the project for flood control and recreation, Sacramento and American Rivers, California, as described in the feasibility report of the Chief of Engineers, entitled the "American River Watershed Investigation," dated July 1, 1992, subject to the provisions of this section.

(b) NATOMAS LEVEE FEATURES.—

(1) CONSTRUCTION.—The Secretary of the Army is authorized and directed to construct the Natomas levee features of the project as described in the feasibility report referred to in subsection (a), subject to entering into appropriate local cost-sharing agreements from the non-Federal sponsors of the project, provided that such construction does not encourage the development of deep flood plains.

(2) CREDIT FOR CERTAIN NON-FEDERAL WORK.—The Secretary of the Army shall credit against the non-Federal share of the cost of construction under paragraph (1), or reimburse the non-Federal sponsors, for any planning and construction work performed by the non-Federal sponsors to protect the Natomas area which is commenced prior to the Army Corps of Engineers' receiving appropriations to initiate such construction and which is consistent with the feasibility report referred to in subsection (a).

(c) GATING AND EXPANDABILITY REPORT.—In carrying out the reevaluation described in subsection (a) and in consultation with the State of California, the local non-Federal sponsors, and other interested groups, the Secretary of the Army is directed, within one year after the date of the enactment of this Act, to submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report which:

(1) analyzes the outlet design of the flood control dam proposed as a feature of the project referred to in subsection (a), including an analysis of various configurations and capacities of gates (including a completely ungated configuration, a partly ungated configuration, emergency gates, operational gates, or a combination thereof) to ensure the safety of the flood control dam itself, to provide for system safety, to minimize small event flooding of the Auburn Canyon, and to minimize damages to the vegetation, soils, and habitat in the canyon; and

(2) includes further analysis as to whether any feature or characteristic of the flood control dam would preclude its efficient expansion for water, power, or other purposes, and whether the design would create any greater difficulty for an expanded dam to meet seismic requirements than a multipurpose dam would otherwise encounter, and further assessment of the extra costs attributable to installation into an expanded dam such penstocks, operational gates and other features of a multipurpose dam which would not be included in an expandable dam lacking advanced features.

(d) REPAYMENT OF DESIGN WORK.—The non-Federal share of the costs of the design and reevaluations described in subsection (a) shall not be required to be repaid until after the execution of the agreement required by section 103(j) of the Water Resources Development Act of 1986 and immediately prior to the initiation of construction of the project or the appropriate separable element.

(e) SPECIAL EVALUATION REPORTS.—

(1) In carrying out the reevaluation described in subsection (a) and in consultation with the State of California, the local non-Federal sponsors, and other interested groups, the Secretary of the Army shall perform further evaluation of, and, within twelve months after the date of the enactment of this Act, submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on, other features and operational procedures that should be implemented in a coordinated plan to provide flood protection sufficiently high for a major urban area subject to risk of frequent floods causing great economic, environmental, and social damage. The report shall specifically address, at a minimum, the following:

(i) The reliability, costs, environmental impacts, and public safety risks associated with increasing objective flows in the Lower American River above the 115,000 cubic feet per second design capacity, as well as the costs and impacts of permanent reoperation of Folsom Reservoir at different levels of increased flood storage, including the appropriate alternatives for sharing costs associated with Folsom Dam.

(ii) The costs and benefits of lowering the spillway at Folsom Dam in order to improve the dam's ability to pass a maximum probable flood and improve its operational flexibility for flood control.

(iii) The costs and benefits of transferring flood control obligations from the Folsom Reservoir to a new flood control facility at Auburn, increasing the Folsom Reservoir's capability for water supply.

(iv) The costs and benefits of utilizing existing and increased flood space in the upstream reservoirs to enhance the flood control capability at Folsom Dam and of establishing offstream storage in Deer Creek, alone or in combination with the alternatives referenced in paragraphs (i) and (ii) of this subsection.